

## **SECTION 12**

### **GRIEVANCE - APPEAL PROCEDURE**

**12-1. Purpose.** The purpose of this Section is to provide a process to hear, review, resolve and, if appropriate, remedy specified grievances of City employees. The City employees covered by this Section are full and part time non-probationary employees except for the employees defined in Section 2.62.020(A) of the Murray City Municipal Code, as amended.

It is the intent of the process provided in this Section to resolve grievances at the lowest level of the line of authority. Accordingly, a covered City employee must exhaust each step of the grievance process provided in Section 4 before proceeding to a hearing before the Personnel Advisory Board, the Mayor, the Appeal Board or a State Court.

If a grievance is covered specifically by other ordinances, or policies, such as claims of discrimination, the procedures for the specific grievance shall be followed as defined in the applicable ordinance or policy.

#### **12-2. Definitions.**

**Grievance.** A grievance is defined as the written complaint of an employee to the respective Department Head or the Human Resources Director concerning a working condition which has allegedly caused an injury, injustice, or wrong to the employee. All grievances must be made in writing on an approved form and must state clearly the reasons for the grievance, the people directly involved, and a desired solution to the problem. After exhaustion of the grievance procedure outlined in Section 4 - steps 1, 2, and 3 - all grievances shall be heard by the Personnel Advisory Board except for those within the review authority of the Appeal Board involving discharge, suspension without pay of more than 2 days or involuntary transfer from one position to another with less remuneration.

#### **12-3. Protection and Representation.**

- a. All covered City employees shall be assured freedom from restraint, interference, discrimination, or reprisal as a result of pursuing the procedures described in this Section.
- b. At each level of a grievance or appeal, employees may represent themselves or may be represented by one person of their own choosing.
- c. The Human Resources Director shall be responsible to ensure that all parties to any appeal or grievance are protected according to these Rules and that these Rules are observed. The Human Resources Department may also assist the parties concerned at any time to clarify policy, recommend solutions, or assist in clearing up misunderstandings.

**12-4. Grievance Procedure.** It is the policy of the City to adjust grievances of employees promptly and fairly and to do so within the framework of existing laws and these Rules. Every effort shall be made to adjust grievances in a manner mutually satisfactory to employees and management. Any employee who alleges inequitable treatment due to some employment condition may personally, or through a representative, seek relief from that condition.

**12-5. Appeals to the Personnel Advisory Board.** The Personnel Advisory Board has jurisdiction to hear appeals from individuals or groups in matters arising from alleged discrimination, City policy infractions, matters pertaining to the establishment and maintenance of registers, examinations, examination rejection, examination ratings, removal from register, position classifications, and being put on probation. Any candidate whose application for admission to an entrance examination has been denied due to a lack of minimum qualifications, may appeal that denial to the Personnel Advisory Board, which shall consider the appeal according to this Section. The Personnel Advisory Board's decision with respect to any such appeal shall be final. As provided in this Section, the Personnel Advisory Board does not have jurisdiction over appeals involving discharge, suspension of more than 2 days without pay, or transfer to a position for less remuneration (see Section 12-6). All appeals must be filed in writing on an approved form with the Department Head and the Human Resources Director.

Step 1. The employee shall complete and submit the grievance form to the immediate supervisor and the Department Head within five (5) working days after the occurrence of the event which is the basis for the grievance. Within five (5) working days, after receiving the grievance, the Department Head shall, after consultation with the related supervisor, invite the employee to discuss the problem and the Department Head shall render a decision.

If the grievance involves the Department Head, the employee may bypass Step 1 and go directly to Step 2.

Step 2. If no satisfactory agreement is reached after Step 1, and it is necessary to carry the grievance further, the interested parties shall within five (5) working days, submit the grievance form and request in writing, a review by the Human Resources Director. The Human Resources Director may, if deemed necessary, conduct an investigation of the grievance. Within twenty (20) calendar days from receipt of the grievance, the Human Resources Director shall provide a recommendation to the employee's Department Head. The Department Head shall provide a decision to the employee within ten (10) calendar days from receipt of the recommendation by the Human Resources Director.

Step 3. If no satisfactory agreement is reached after Step 2 and it is necessary to carry the grievance further, the interested parties have the right to have the matter heard on appeal before the Personnel Advisory Board. The written grievance form shall be completed and forwarded to the Human Resources Director within five (5) days from the date of the Department Head's final decision under Step 2.

Step 4. Within twenty (20) calendar days after receipt of a written request for a hearing on appeal, in matters within its jurisdiction, the Personnel Advisory Board shall review the appeal and schedule and hold a hearing. The Personnel Advisory Board shall submit a decision in writing to the employee within ten (10) working days from the date of the Personnel Advisory Board's decision.

Step 5. An aggrieved employee or the employee's Department Head may appeal the decision of the Personnel Advisory Board to the Mayor by filing written notice within five (5) working days following receipt of the decision. The Mayor shall, after review of the record, including the hearing before the Personnel Advisory Board, make a decision within thirty (30) calendar days after receipt of the appeal. The Mayor's decision shall be final.

**12-6. Appeals, involving suspension for more than two (2) days without pay, discharge or transfer to a position of less remuneration - Creation of Three Member Appeal Board.**

Step 1. The employee shall complete and submit the grievance form to the immediate supervisor and the Department Head within five (5) working days after the occurrence of the event which is the basis for the grievance. Within five (5) working days, after receiving the grievance, the Department Head shall, after consultation with the related supervisor, invite the employee to discuss the problem and the Department Head shall render a decision.

If the grievance involves the Department Head, the employee may bypass Step 1 and go directly to Step 2.

Step 2. If no satisfactory agreement is reached after Step 1, and it is necessary to carry the grievance further, the interested parties shall, within five (5) working days, submit the grievance form and request in writing a review by the Human Resources Director. The Human Resources Director may, if deemed necessary, conduct an investigation of the grievance. Within twenty (20) calendar days from receipt of the grievance, the Human Resources Director shall provide a recommendation to the employee's Department Head. The Department Head shall provide a decision to the employee within ten (10) calendar days from receipt of the recommendation by the Human Resources Director.

Step 3. If no satisfactory agreement is reached after Step 2 and it is necessary to carry the grievance further, the interested parties have the right to have the matter heard on appeal before an independent Appeal Board. The written grievance form shall be completed and forwarded to the Human Resources Director within five (5) working days from the date of the Department Head's final decision under Step 2.

**Selection of the Three Member Appeal Board:**

The Human Resources Director shall maintain a current roster of mediators and arbitrators, as provided by the administrative office of the Utah Courts.

The selection of the Appeal Board Members shall be as follows: the Mayor, the employee and the Department Head shall each select from the Utah Courts Roster of Mediators and Arbitrators one member to serve on the Appeal Board, subject to their availability.

Step 4. Within twenty (20) calendar days after receipt of a written request for a hearing on appeal, in matters within its jurisdiction, the Appeal Board shall review the appeal, schedule and hold a hearing. The Appeal Board shall submit a decision in writing to the Mayor, Department Head and the employee within 10 working days from the date of the Appeal Board's decision.

- a. The employee shall be entitled to appear in person and to be represented by counsel, to have a hearing, confront witnesses whose testimony is to be considered and to examine the evidence to be considered by the Appeal Board.
- b. Each decision of the Appeal Board, shall be certified to the City Recorder within fifteen (15) calendar days from the date the matter is referred to the Appeal Board. Except for good cause, the Appeal Board may extend the fifteen (15)-day period to a maximum of sixty (60) calendar days, if the employee and the Department Head both consent.

If the Appeal Board finds in favor of the employee, the Appeal Board shall provide that the employee receives the employee's salary for the period of time during which the employee is discharged or suspended without pay; or any deficiency in salary for the period during which the employee was transferred to a position of less remuneration.

- c. The final action or order of the Appeal Board may be appealed to the Utah Court of Appeals by filing a notice of appeal with that court. Each notice of appeal shall be filed within thirty (30) calendar days after the issuance of the final action or order of the Appeal Board. The Utah Court of Appeals' review shall be on the record of the Appeal Board and for the purpose of determining if the Appeal Board abused its discretion or exceeded its authority.